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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/759,597	01/11/2001	Henry Sowizral	5181-45501	9430

7590

10/24/2005

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EXAMINER

VO, CLIFF N

ART UNIT

PAPER NUMBER

2676

DATE MAILED: 10/24/2005

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/759,597

Applicant(s)

SOWIZRAL ET AL.

Examiner

CLIFF N. VO

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-11 and 28-36 is/are allowed.
- 6) ☒ Claim(s) 12-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- * Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Applicant is advised that the Notice of Allowance mailed is vacated. If the issue fee has already been paid, applicant may request a refund or request that the fee be credited to a deposit account. However, applicant may wait until the application is either found allowable or held abandoned. If allowed, upon receipt of a new Notice of Allowance, applicant may request that the previously submitted issue fee be applied. If abandoned, applicant may request refund or credit to a specified Deposit Account.

2. The indicated allowability of claims 12-13 is withdrawn in view of the newly discovered reference(s) to Sowizral et al (U.S. Patent No. 6,570,564). Rejections based on the newly cited reference(s) follow.

Claim Objections

3. Claim 12 is objected to because of the following informalities: it is unclear that how the step of "generating a parallel *means of* accessing" (line 5) is performed in the *method claim*. Furthermore, the word "exist" (line 7) should have been changed to --exists--. Appropriate correction is required.

4. Claims 13-27 depend on claim 12, they are objected to with the same reason as set forth in above.

Double Patenting

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164

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USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claims 12 and 13 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 27 of U.S. Patent No. 6,570,564. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the reason as follows.

As per claim 12 of the instant application, U.S. Patent No. 6,570,564's claim 27 discloses creating a scene graph (col.26, line 45), adding one or more pointers (nodes) to the scene graph, wherein the pointers point to objects that are part of the virtual world (col.26, lines 46-49), generating a means for accessing the one or more objects in the scene graph (col.26, lines 50-51), creating a new data structure corresponding to the type of object (col.26, lines 52-54), creating a new entry in the corresponding data structure (col.26, lines 54-57), creating one or more threads to act on the data structure and executing the threads to render an image corresponding to the graph (col.26, lines 57-59). It should be noticed that U.S. Patent No. 6,570,564 fails to teach determining whether a data structure corresponding to the one or more objects already exist. Rather, U.S. Patent No. 6,570,564 teaches "for each node added to the hierarchy, one corresponding data structure or thread is generated (col.26, lines 52-54). This implies that for every nodes in the hierarchy, a corresponding data

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structure must be generated. It would have been obvious to one of ordinary skill in the art at the time the invention was made to recognize that the step of generating data structure or thread for each node added to the hierarchy would have included a step of determining whether a data structure corresponding to the one or more objects already exist and not creating new nodes or pointers for the objects already in the data structure because it would have avoided the unnecessary redundant processes and file size increasing.

As per dependent claim 13, the patented claim 27 further teaches wherein the objects include one or more of the following: *three dimensional graphical object*, lights, transformation and environment attributes at col.26, lines 47-49.

Claim Rejections - 35 USC § 101

7. Claims 12-27 are rejected under 35 U.S.C. 101 because it simply recites "a method for managing a virtual world" comprising those steps which are not executed by a computer system. Thus, the claimed invention is directed to non-statutory subject matter.

Allowable Subject Matter

8. Claims 1-11 and 28-36 are allowed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CLIFF N. VO whose telephone number is 571-272-7651. The examiner can normally be reached on 2nd Monday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MATTHEW BELLA can be reached on 571-272-7778.

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The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CLIFF N VO
Examiner
Art Unit 2676



MATTHEW C. BELLA
SUPERVISORY PATENT EXAMINER
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